

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

**CAROL MORSE, *other*
similarly-situated individuals, et al.,**

Plaintiffs,

v.

5:17-CV-0235 (BKS/ATB)

ALPINE ACCESS, INC., *et al.*,

Defendants.

Hon. Brenda K. Sannes, United States District Judge:

MEMORANDUM-DECISION AND ORDER

Plaintiffs Carol Morse, Becky Nellos and Sandy Morowitz, commenced this Fair Labor Standards Act case asserting claims on behalf of themselves and other similarly-situated individuals. Dkt. No. 1. On August 3, 2017, Defendants filed a motion to dismiss Plaintiff Sandy Morowitz under Fed. R. Civ. P. 41(b). Dkt. No. 46. Plaintiff Morowitz has not opposed this motion. Plaintiffs' counsel has informed defense counsel that Morowitz intends to withdraw from the litigation. Dkt. No. 46-9, p. 1. Defendants' motion was referred to United States Magistrate Judge Andrew T. Baxter who, on September 26, 2017, issued a Report-Recommendation recommending that Defendants' motion to dismiss be granted. Dkt. No. 60. Magistrate Judge Baxter advised the parties that under 28 U.S.C. § 636(b)(1), they had fourteen days within which to file written objections to the report, and that the failure to object to the report within fourteen days would preclude appellate review. Dkt. No. 60, p. 8. No objections to the Report-Recommendation have been filed.

As no objections to the Report-Recommendation have been filed, and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 228-29 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee's note to 1983 amendment. Having reviewed the Report-Recommendation for clear error and found none, the Court adopts it in its entirety.

For these reasons, it is

ORDERED that the Report-Recommendation (Dkt. No. 60) is **ADOPTED** in its entirety; and it is further

ORDERED that Defendants' motion to dismiss all claims of Plaintiff Sandy Morowitz (Dkt. No. 46) is **GRANTED**; and it is further

ORDERED that the claims of Plaintiff Sandy Morowitz under the Fair Labor Standards Act are **DISMISSED with prejudice**; and it is further

ORDERED that claims of Sandy Morowitz as a named plaintiff under the New York Labor Law or other state law are **DISMISSED WITHOUT PREJUDICE** to her future participation, to the extent the Court deems appropriate, as an absent class member on those state law claims, if the Rule 23 class action becomes certified.

IT IS SO ORDERED.

Dated: November 8, 2017


Brenda K. Sannes
Brenda K. Sannes
U.S. District Judge